

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6752

BILL NUMBER: SB 181

NOTE PREPARED: Apr 30, 2009

BILL AMENDED: Apr 29, 2009

SUBJECT: Child Seduction and Repeat Sex Offenders.

FIRST AUTHOR: Sen. Lubbers

FIRST SPONSOR: Rep. Pierce

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Child Seduction – It expands the range of possible offenders for the crime of child seduction by adding persons employed by a charter school or special education cooperative and persons otherwise affiliated with a school corporation, charter school, nonpublic school, or special education cooperative if the person affiliated with the school or cooperative: (1) has a position of trust with respect to a child who attends the school or cooperative; (2) is engaged in the provision of care to or supervision of a child who attends the school or cooperative; and (3) is at least four years older than the child. It provides that a military recruiter whose primary job is recruiting individuals to enlist with the armed forces commits child seduction if the military recruiter is attempting to enlist a child at least 16 years of age but less than 18 years of age and: (1) engages in sexual intercourse with the child; (2) engages in deviate sexual conduct with the child; or (3) fondles the child.

Repeat Sex Offenders – It provides that an attempted sex offense may be used to establish that a person is a repeat sex offender.

Release of Medical Information – It establishes a procedure for the release of medical information relevant to the prosecution or defense of a person who has been charged with a potentially disease-transmitting offense. It allows a prosecuting attorney to petition a court to order a defendant charged with the commission of: (1) a potentially disease-transmitting offense; or (2) an offense involving the transmission of a bodily fluid; to submit to a screening test to determine whether the defendant is infected with a dangerous disease. It makes conforming amendments. It repeals a similar provision in current law that applies only to screening tests for HIV.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Child Seduction* – There are no data available to indicate how many more child care workers or military recruiters may be convicted of child seduction, a Class D felony, if the definition of a child care worker is expanded. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$69,223. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months. [On average between 2003 and 2007, there were four offenders a year committed to a state correctional facility for child seduction.]

Repeat Sex Offenders – This provision could increase the number of prison beds required, but the increase would be minimal. LSA identified no more than four offenders in any year between CY 2003 and 2007 who were committed to the DOC for an attempted sex crime and had been incarcerated in the past for another unrelated sex crime. The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.)

Offenders Committed to DOC for Attempted Sex Crimes With Prior Sex Crime Conviction				
2003	2004	2005	2006	2007
1	4	3	1	0

Explanation of State Revenues: *Child Seduction* – If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Release of Medical Information* – Courts would be required to hold additional hearings if the prosecuting attorney requests medical information about the criminal defendant under one of the following two conditions.

First, prosecuting attorneys may file a petition with the court requesting release of existing medical information about a suspected person for use as evidence in a criminal investigation.

Second, crime victims who have allegedly been infected with a dangerous disease can request the prosecuting attorney to petition the court to order a defendant to submit to a screening test to determine whether the defendant is infected with a dangerous disease. The prosecuting attorney must petition the court, and the court

must hold a hearing within 48 hours after the prosecuting attorney files a petition.

If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts, prosecuting attorneys, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; DOC.

Fiscal Analyst: Mark Goodpaster 317.232.9852